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IN THE UNITED STATES PATENT OFFICE

December 22, 2003  
P.O. Box 578  
700, 22 Frederick Street  
Kitchener, Ontario  
N2G 4A2  
(519) 579-3660 phone  
(519) 576-2030 fax

OFFICIAL

APPLICANTS : Witzel, Theodore A.

SERIAL NO. : 10/054,893

FILED : 01/25/2002

TITLE : Flavor Wave Plate for Barbecues and Combination  
of Flavor Wave Plate and Barbecue

DOCKET : 39452

Mail Stop Non Fee Amendment  
Honourable Commissioner for Patents  
Washington, D.C. 20231

**ATTENTION:** Milton Cano, Supervisory Examiner

Dear Sir:

We are writing to you further to our recent telephone conversation wherein you advised that you would pass the Petition in this matter on to the Commissioner on our behalf.

We are sending a copy of this Petition to you by mail, as we have been unable to forward it to you by facsimile transmission. The fax number in the most recent Office Action from the U.S. Patent Office is no longer accurate. When the fax number (703) 872-9476 is dialed, the operator provides a new facsimile number of (571) 273-1398. However several attempts to fax to this number have been unsuccessful. When this number is dialed we are advised that the number is not in service. We have attempted to

Page 2

reach you by telephone and have a left a voice mail message for you. We have also attempted to reach Mr. Alexander by telephone, but his voice mail advises that he will be out of the office until December 29, 2003. We will forward this Petition to you by facsimile when we have an accurate fax number.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact our office.

Yours very truly,

Daryl W. Schnurr  
Reg. No. 28,569

## IN THE UNITED STATES PATENT OFFICE

SENT BY FACSIMILE TO (703) 872-9476

December 19, 2003  
P.O. Box 578  
700, 22 Frederick Street  
Kitchener, Ontario  
N2G 4A2  
(519) 579-3660 phone  
(519) 576-2030 fax

APPLICANTS : Witzel, Theodoric A.  
SERIAL NO. : 10/054,893  
FILED : 01/25/2002  
TITLE : Flavor Wave Plate for Barbecues and Combination  
of Flavor Wave Plate and Barbecue  
EXAMINER : Alexander, Reginald L., Group Art Unit 1761  
DOCKET : 39452

**PETITION TO THE COMMISSION UNDER RULE 1.181**  
**PETITION FOR REVIVAL OF ABANDONED APPLICATION**  
**OR A PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

Mail Stop Petition  
Honourable Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

1. On November 10, 2003, we received a Notice of Abandonment of the above application dated October 20, 2003. A copy of the Notice is attached as Exhibit "A". The Notice of Abandonment is reportedly based on the Applicant's failure to timely file a proper Reply to the Office Letter mailed on March 13, 2003 as no Reply was apparently received.
2. A timely Reply was forwarded by fax to the U.S. Patent Office to the attention of

the Examiner on June 10, 2003 at approximately 4:14 p.m. We are in the same Eastern Standard Time Zone (i.e. at that time Eastern Daylight Time Zone) as the U.S. Patent Office. The fax was forwarded to fax number (703) 305-7718. A copy of the fax cover sheet dated June 10, 2003 and the attached Reply dated June 5, 2003 is attached as Exhibit "B". The fax number to which the fax was forwarded is the fax number shown on page 3 of the Office Letter as the fax number for regular communications.

3. We are enclosing a copy of a transmission report, which is automatically produced by our fax machine, indicating that the transmission to the fax number 703-305-7718 was completed and indicating the time at 4:14 p.m. The transmission report is attached as Exhibit "C" and includes a reduced copy of the fax cover dated June 10, 2003. The fax cover is signed by Susan Stasiuk who signed the Certificate of Facsimile Transmission. Susan Stasiuk was my Assistant who prepared the Reply pursuant to my instructions and faxed the Reply pursuant to my instructions.
4. Attached as Exhibit "D" is a copy of a letter dated August 5, 2003 to our client reporting that the Reply was forwarded to the U.S. Patent Office on June 10, 2003.
5. We did not receive a fax receipt from the U.S. Patent Office, but that is not unusual as we sometimes receive a fax receipt and we sometimes do not receive a fax receipt from the U.S. Patent Office.
6. The fax cover indicates that the original is sent by mail and Susan Stasiuk was instructed to send the cover and the reply by mail. Susan Stasiuk is no longer employed by us. We have been practicing before the U.S. Patent Office for many years and we believe that the fax transmission was received by the U.S. Patent Office, but was lost internally.
7. The application required relatively minor amendments to place the application in condition for allowance. The Reply made those amendments.
8. It is respectfully submitted that this Petition be granted without a Petition Fee being required. The fact that the faxed Reply was shown by the Patent Office as not being received was not the fault of the Applicant or us and the delay caused

by the loss of the Reply forwarded by fax to the Patent Office was unavoidable, or, alternatively we require that the holding of abandonment be withdrawn. We request that the Commissioner invoke the supervisory authority to place the application in the position it would have been in had the faxed Reply been recorded as received by the U.S. Patent Office.

All of which is respectfully submitted this 19th day of December, 2003.



Daryl W. Schnurr  
Reg. No. 28,569

## EXHIBIT "A"

<b>Notice of Abandonment</b>	Application No.	Applicant(s)	
	10/054,893	WITZEL, THEODORE A.	
	Examiner	Art Unit	
	Reginald L. Alexander	1761	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 13 March 2003.
  - ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

Reginald L. Alexander  
Primary Examiner  
Art Unit: 1761

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

EXHIBIT "B"

**MILLER THOMSON LLP**

Barristers &amp; Solicitors, Patent &amp; Trade Mark Agents

**Fax Transmission Cover**

700, 22 Frederick Street  
P.O. Box 578  
Kitchener, ON, Canada N2G 4A2  
Tel: 519.579.3661 Ext. 326 (Direct)  
Fax: 519.576-2030 (Direct)  
www.millerthomson.com

**DATE:** June 10, 2003  
**TO:** U.S. Commissioner of Patents, Reginald Alexander Examiner,  
Group Art Unit 1761  
**FAX NO.:** 703-305-7718  
**SUBJECT:** Witzel-10/54,839 Our File 39452  
**FROM:** Daryl W. Schnurr **DIRECT LINE:** 579-3661 ext 326  
**PAGES:** 4 (INCLUDING THIS PAGE) **DIRECT FAX:** 519-576-2030  
Please notify Susan at Ext. 386 immediately if all pages are not received

**ORIGINAL WILL BE:**

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**COMMENTS:****CERTIFICATE OF FACSIMILE TRANSMISSION**

**Applicants:** Witzel, Theodore A.. Serial No. 10/54,839  
**Filed:** 01/25/2002  
**Title:** Flavor Wave Plate for Barbecues and Combination of Flavor Wave Plate and Barbecue

I hereby certify that the paper attached hereto, being an amendment dated May 13, 2003, is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

  
Susan Stasiuk

June 10, 2003

Toronto Vancouver Calgary Edmonton Markham Waterloo Region Whitehorse Washington, D.C.  
Affiliations Worldwide

The following material is intended for use only by the individual to whom it is specifically addressed above and should not be read by, or delivered to, any other person. Such material may contain privileged or confidential information. If you have received this facsimile in error, please notify us immediately by calling the sender's direct line above (collect if necessary). We thank you in advance for your co-operation and assistance.

## EXHIBIT "C"

**MILLER THOMSON LLP**  
 Barristers & Solicitors, Patent & Trade Mark Agents
**Fax Transmission Cover**
 300, 22 Frederick Street  
 P.O. Box 578  
 Kitchener, ON, Canada N2G 4A7  
 Tel: 519.579.2031 Ext. 528 (direct)  
 Fax: 519.579.2030 (direct)  
 www.millertomson.com

**DATE:** June 10, 2003  
**TO:** U.S. Commissioner of Patents, Reginald Alexander Examiner,  
 Group Art Unit 1761  
**FAX NO.:** 703-305-7718  
**SUBJECT:** Witzel-10/54,839 Our File 39452  
**FROM:** Daryl W. Schnurr **DIRECT LINE:** 579-3661 ext 326  
**PAGES:** 4 **((INCLUDING THIS PAGE) DIRECT FAX: 519-579-2030**  
**Please notify Susan at Ext. 386 immediately if all pages are not received**

**ORIGINAL WILL BE:**  
 Placed on file ☐

Mailed to you ☒

Sent to you by courier ☐

**COMMENTS:****CERTIFICATE OF FACSIMILE TRANSMISSION**

**Applicants:** Witzel, Theodore A. Serial No. 10/54,839  
**Filed:** 01/25/2002  
**Title:** Flavour Wave Plate for Barbecue and Combination of Flavor Wave Plate and Barbecue  
 I hereby certify that the paper attached hereto, being an amendment dated May 13, 2003, is being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Susan Straluk  
 Toronto Vancouver Calgary Edmonton June 10, 2003 Markham Waterloo Region Whitehorse Washington, D.C.  
 Affiliations Worldwide

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**TRANSMISSION REPORT**

THIS DOCUMENT WAS CONFIRMED  
 (REDUCED SAMPLE ABOVE - SEE DETAILS BELOW)

**\*\* COUNT \*\***

TOTAL PAGES SCANNED : 4  
 TOTAL PAGES CONFIRMED : 4

\*\*\* SEND \*\*\*

No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	7033057718	6-10- 3 4:14PM	0'59"	4/ 4	EC	COMPLETED 14400

TOTAL 0:00'59" 4

**NOTE:**

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION  
 PD : POLLED BY REMOTE SF : STORE & FORWARD RI : RELAY INITIATE RS : RELAY STATION  
 MB : SEND TO MAILBOX PG : POLLING A REMOTE MI : MULTI-POLLING RM : RECEIVE TO MEMORY



EXHIBIT "D"

DIRECT TEL: 519.579.3661 EXT 328  
DIRECT FAX: 519.576.2030  
E-MAIL dschnurr@millerthomson.ca

August 5, 2003

File No. 58348.0002

Onward Multi-Corp Inc.  
585 Kumpf Drive  
Waterloo, Ontario  
N2V 1K3

Dear Sirs:

Attention: Mr. Ted Witzel, President

**RE: United States Patent Application for  
Flavor Wave Plate for Barbecues and Combination of  
Flavor Wave Plate and Barbecue  
D. Schnurr former file 39452**

We confirm that a Reply to the most recent Office Action received from the Patent Office in this matter was sent to the U.S. Patent Office on June 10, 2003 for filing.

A copy of the Office Action and our Reply thereto are enclosed for your file.

At this time, we also enclose our account for our services rendered in connection with the preparation and filing of said Reply.

We shall report to you when a further communication is received from the Patent Office.

Yours very truly,

MILLER THOMSON LLP

Per:  
Daryl W. Schnurr

DWS/br  
encl.